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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/760,335	01/20/2004	Eugenio Aburto Ponce	EACS ONE	9815
7590 Eugenio Aburto Ponce 515 Gorgonia Newport Beach, CA 92660			EXAMINER WENDELL, MARK R	
			ART UNIT 3609	PAPER NUMBER
			MAIL DATE 05/25/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/760,335	ABURTO PONCE, EUGENIO	
	Examiner	Art Unit	
	Mark R. Wendell	3609	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION***Specification***

35 U.S.C. 112, first paragraph, requires the specification to be written in "full, clear, concise, and exact terms." The specification is replete with terms that are not clear, concise and exact. The specification should be revised carefully in order to comply with 35 U.S.C. 112, first paragraph. Examples of some unclear, inexact or verbose terms used in the specification are: Page 5/32, Advantages of the present invention, paragraph 2, lines 5-7; Page 9/32, Detailed Description, item 3, lines 21-26. The examiner notes that the above is NOT an exhaustive list and applicant is encouraged to carefully review the entire specification. The examiner also notes that if prior art was relied upon in the application, which is indicated in the "Field of Invention" and "Brief Summary of Invention," the patent or publication information should be provided.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-23 are rejected as failing to define the invention in the manner required by 35 U.S.C. 112, second paragraph.

The claims are narrative in form and replete with indefinite and functional or operational language. The structure that goes to make up the device must be clearly and positively specified. The structure must be organized and correlated in such a

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manner as to present a complete operative device. The claims must be in one sentence form only. Note the format of the claims in the patents cited. See specifically Clarke (US 5172528), Groh (US 5759260) and Williams (US 5664389). The examiner notes that proper English grammar, spelling, and sentence structure should be used when submitting an application to clearly define limitations of the claimed invention.

Regarding claim 18, the applicant claims a steel structure of rebar and stirrups composed of concrete. The examiner notes that a steel structure cannot be made of concrete, appropriate correction of claim structure or language is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3-21, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lord (US 5987827) in view of Hendershot et al. (US 5761862). Lord discloses a construction system for buildings consisting of:

- Preparing pre-cast items for windows and doors (Lord column 2, lines 6-17)

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(Examiner notes that in regards to claim 3, it is notoriously well known in the art of building construction that templates are made for quickly and easily making exact multiples of objects);

- Making wood molds and pouring concrete into said molds (Lord Figure 12)
(Examiner notes that in regards to claim 23, it is notoriously well known in the art of construction to consider engineering calculations when building or assembling a structure);
- Preparing a foundation and filling with stone and concrete (Lord column 3, lines 64-65).

However, Lord does not disclose reinforcing molds with rebar, pipes and stirrups, and Hendershot teaches:

- Reinforcing molds with rebar, pipes and stirrups (Hendershot Figure 9)
(Examiner further notes that it is common practice within the construction industry to place rebar, pipes, and stirrups within concrete members for reinforcement);
- Installing doors and windows;
- Installing T-beams with reinforcing mesh;

It would have been obvious to one of ordinary skill in the art, with the motivation of constructing a complete, functional dwelling, to modify the construction method of Lord with the reinforcing means and extra features of Hendershot.

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Regarding claims 12 and 13, it is notoriously well known in the art of building construction to use color-coding or graphical representation when digging or assembling structures.

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lord (US 5987827) and Hendershot et al. (US 5761862) as applied to claims 1, 3-21, and 23 above, and further in view of Clarke (US 5172528). It is described above what is disclosed by Lord and Hendershot. Clarke further teaches walls constructed from other materials, such as tires, mixed with concrete (Figure 1). With the motivation of recycling and utilizing materials that would otherwise be disposed of, it would be obvious to one of ordinary skill in the art to modify the construction system described above with the idea of using recycled material disclosed in Clarke to cheaply make massive buildings.

Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lord (US 5987827) and Hendershot et al. (US 5761862) as applied to claims 1, 3-21, and 23 above, and further in view of Schoenfelder (US 4483115). It is described above what is disclosed by Lord and Hendershot. Schoenfelder further teaches an insulation structure containing insulation (16) and hollow concrete bricks (18) (Figure 1). With the motivation of cheaply insulating a building with common building materials, it would be obvious to one of ordinary skill in the art to modify the construction system described above with an insulated brick.

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Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Lingafelter (US 5755072) teaches a construction method of marking installation layout locations on an object before the object is installed. Williams (US 5664389) teaches U-bolts securing rebar within a building wall. Fischer (US 4759160) teaches a construction method for prefabricated concrete buildings. Loftus (US 5657597) teaches a building construction method using lightweight wall blocks. Groh (US 5759260) teaches a method for producing lightweight concrete including curing times and compressive strength limitations.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark R. Wendell whose telephone number is (571) 270-3245. The examiner can normally be reached on Mon-Fri, 7:30AM-5PM, Alt. Fri off, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Victor Batson can be reached on (571) 272-6987. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Victor Batson

Supervisory Patent Examiner

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MW

May 15, 2007